



THE MARYLAND GENERAL ASSEMBLY  
ANNAPOLIS, MARYLAND 21401-1991

JOINT COMMITTEE ON ADMINISTRATIVE, EXECUTIVE, AND LEGISLATIVE REVIEW

**Memorandum**

**To:** Members of the AELR Committee  
Standing Committee Chairs

**From:** Kathleen P. Kennedy, AELR Committee Counsel  
John J. Joyce, AELR Committee Counsel  
Georgianne Carter, AELR Committee Counsel

**Date:** October 2, 2020

**Re:** **Synopses of Regulations received from 9/18/2020 through 10/1/2020**

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Enclosed please find synopses of regulations received by the Joint Committee on Administrative, Executive, and Legislative Review (AELR) during the weeks noted above.

The Office of Policy Analysis prepares analyses of the regulations to determine if there are any problem areas, to ensure that the regulations comply with statutory authority and legislative intent, and to assess the fiscal impact of the regulations. If any regulation is of particular interest to you, please feel free to contact us at 410-946-5350 and we will supply you with a copy of the regulation along with the legal and fiscal analysis.

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cc: Jake Weissmann  
Alexandra M. Hughes

**Natural Resources, Department of**

**Proposed Regulation**

**DLS Control No. 20-110**

**Department of Natural Resources:**

**Fisheries Service:**

**Fishing Guide Provisions:** COMAR 08.02.18.04 through .06

According to the department, the regulations (1) implement Chapters 430 (House Bill 1131) and 431 (Senate Bill 793) of 2020 by establishing that a boat or vessel being guided by limited fishing guides may be propelled by human power; and (2) make technical and stylistic changes.

**Transportation, Department of**

**Proposed Regulation**

**DLS Control No. 20-112**

**Department of Transportation:**

**Maryland Transit Administration:**

**Distribution of Fare Products by Opioid Treatment Centers:**

COMAR 11.06.04.01 through .06

According to the department, the purpose of this action is to establish a process by which qualified patients of opioid treatment centers may be issued a reduced fare transit pass by their participating treatment center.

**Criminal Sentencing Policy, Commission on**

**Proposed Regulations**

**DLS Control No. 20-114**

**Independent Agencies:**

**Commission on Criminal Sentencing Policy:**

**General Regulations:** COMAR 14.22.01.02

**General Regulations:** COMAR 14.22.01.09

**General Regulations:** COMAR 14.22.01.10

**General Regulations:** COMAR 14.22.01.14

According to the commission, the purpose of this action is to indicate modifications to the definition of special vulnerability of victim in Regulation .02 under COMAR 14.22.01 General Regulations, replacing the term “handicap” with “disability” and providing examples of a temporary physical or mental limitation. The examples include instances when the offender knew or should have known the victim was pregnant, unconscious, asleep, or intoxicated. Additionally,

the purpose of this action is to clarify the language in Regulations .09, .10, and .14 under COMAR 14.22.01 General Regulations. These modifications remove language in Regulation .09 that is duplicative of language in Regulation .08 and thus not necessary. These modifications also add missing language to Regulation .10 concerning the seriousness category for uncategorized offenses with a maximum penalty of one year or less and the seriousness category for conspiracy to commit a lawful act by unlawful means. Finally, the modifications simplify the language in Regulation .14 concerning the adjusted guidelines range for first degree murder, removing the terms “mandatory suspendable” when describing the adjusted range of “life to life.” These modifications to Regulations .09, .10, and .14 are consistent with existing sentencing guidelines rules and do not indicate changes to the calculation of the guidelines.

**Proposed Regulation**

**DLS Control No. 20-115**

**Independent Agencies:**

**Maryland State Library:**

**Programs for Library Media Services: COMAR 14.38.01.04**

According to the board, the purpose of this action is to change the name of the Maryland State Library for the Blind and Physically Handicapped to the Maryland State Library for the Blind and Print Disabled which will reflect a more inclusive scope of eligibility with a clear definition and as a cooperating network library of the National Library Service for the Blind and Print Disabled, part of the Library of Congress, the name change will align the library with the national entity.

**Maryland Department of Health**

**Proposed Regulation**

**DLS Control No. 20-116**

**Maryland Department of Health:**

**Medical Care Programs:**

**Pharmacy Services: COMAR 10.09.03.07**

According to the department, the purpose of this action is to increase the professional dispensing fees paid to Maryland Medicaid community participating pharmacy providers for covered services. This includes covered services rendered to participants in nursing facilities and covered services rendered to individuals who do not reside in nursing facilities, in order to comply with federal mandates established by CMS’ Covered Outpatient Drug Final Rule (CMS-2345-FC).

**Proposed Regulations**

**DLS Control No. 20-117**

**Maryland Department of Health:**

**Medical Care Programs:**

**Home Health Services:** COMAR 10.09.04.01, and .03 through.07

According to the department, the purpose of this action is to expand the provider types permitted to order home health services to include nurse practitioners. Additionally, the proposed action changes instances of the term “recipient” to “participant” throughout the chapter.

**Proposed Regulation**

**DLS Control No. 20-118**

**Maryland Department of Health:**

**Medical Care Programs:**

**Pharmacists:** COMAR 10.09.21.06

According to the department, the purpose of this action is to update the pharmacist prescriber payment procedures regulation by adding a reference to the Professional Services Provider Manual and Fee Schedule.

**Proposed Regulation**

**DLS Control No. 20-119**

**Maryland Department of Health:**

**Medical Care Programs:**

**Urgent Care Centers:** COMAR 10.09.77.06

According to the department, the purpose of this action is to clarify payment procedures for professional and laboratory services provided in urgent care centers by adding cross-references to the regulations where the corresponding fee schedules are incorporated by reference.

**Proposed Regulations**

**DLS Control No. 20-120**

**Maryland Department of Health:**

**Board of Nursing:**

**Examination and Licensure:** COMAR 10.27.01.01, .05, and .10

According to the department, the purpose of this action is to: (1) amend the requirements for testing English competency of foreign nursing school graduates whose nursing education was not taught in English; (2) repeal the waiver for a clinical nursing education requirement for a nurse applying for a license by endorsement in this State;(3) define competency in reading, speaking, writing, and listening in accordance with the Nurse Licensure Compact; (4) define the minimal passing scores for the two English language competency tests that the Board recognizes; and (5) repeal, in accordance with the Sunset Provision, effective September 30, 2018, for Health Occupations Article, § 8-307(c), Annotated Code of Maryland, the requirement that the board waive the supervised clinical learning experience requirement for nurse endorsement

applicants who attended a nursing program without a supervised clinical learning experience requirement.

**Proposed Regulations**

**DLS Control No. 20-121**

**Maryland Department of Health:**

**Board of Professional Counselors and Therapists:**

**General Regulations:** COMAR 10.58.01.01 through .06

**Supervision Requirements:** COMAR 10.58.12.01 through .10

According to the department, the purpose of this action is to: (1) reorganize and clarify COMAR 10.58.01 to make it applicable to all licenses, certificate holders, and alcohol and drug trainees; (2) repeal the existing chapter, COMAR 10.58.12, and replace it with a new chapter exclusively for licensed clinical and graduate professional counselors; (3) clarify certain procedures for the administrative processing of applications; and (4) repeal the requirement that the board issue paper licenses and certificates from COMAR.

**Proposed Regulations**

**DLS Control No. 20-122**

**Maryland Department of Health:**

**Board of Professional Counselors and Therapists:**

**Alcohol and Drug Counselors – Requirements for Certification and Licensure:**

COMAR 10.58.07.02 through .16

**Supervision Requirements for Licensed Graduate Alcohol and Drug Counselors and Graduate-Level Trainees:** COMAR 10.58.13.01 through .08

**Supervision Requirements for Certified Alcohol and Drug Counselors and Trainees Pursuing Certification:** COMAR 10.58.14.01 through .08

According to the department, the purpose of this action is to: (1) reorganize and consolidate language into a single chapter, COMAR 10.58.07, from COMAR 10.58.01, 10.58.13 and 10.58.14 pertaining to all alcohol and drug licensees, certificate holders and trainees; (2) delete or amend obsolete information to more accurately reflect statutory requirements; (3) clarify certain procedures for the administrative processing of applications; (4) provide that alcohol and drug trainees are required to obtain a criminal history records check and are subject to the same disciplinary sanctions that currently apply to other certified or licensed alcohol and drug counselors as set forth in chapters 408 and 409, Acts of 2019; and (5) repeal the requirement that the board issue paper licenses and certificates from COMAR.

**Proposed Regulation**

**DLS Control No. 20-123**

**Maryland Department of Health:**

**Board of Nursing – Licensed Direct-Entry Midwives:**

**Code of Ethics for Licensed Direct-Entry Midwives:**

COMAR 10.64.02.01 through .03

According to the department, the purpose of this action is to establish a Code of Ethics for Licensed Direct-Entry Midwives to guide them in their practice, add additional regulatory requirements for safe practice, and provide a general framework for their ethical practice.

**Proposed Regulation**

**DLS Control No. 20-124**

**Maryland Department of Health:**

**Maryland HealthChoice Program:**

**Managed Care Organizations:** COMAR 10.67.04.03

According to the department, the purpose of this action is to implement the CY 2021 MCO value-based purchasing (VBP) core performance measures.

**Proposed Regulations**

**DLS Control No. 20-125**

**Maryland Department of Health:**

**Medical Care Programs:**

**General Medical Assistance Provider Participation Criteria:**

COMAR 10.09.36.01, .08, and .09

According to the department, the purpose of this action is to: (1) define the terms “claim” and “clean claim” in order to clarify the program’s billing requirements; (2) clarify the definitions of terms “provider”, “overpayment”, and “withhold payment”; (3) codify the department’s ability to recover an overpayment and providers’ ability to appeal an overpayment recovery; and (4) clarify the effective date of the program’s action to suspend payment when a credible allegation of fraud is determined.

**Retirement and Pension System, State**

**Proposed Regulations**

**DLS Control No. 20-113**

**State Retirement and Pension System:**

**Option and Annuity Tables:**

**Option Factors and Annuity Values:** COMAR 22.02.01.01, and .03 through.05

According to the State Retirement Agency, the purpose of this action is to update the option factors and annuity values used by the State Retirement Agency when making calculations related

to benefits payable on the commencement of a retirement allowance, vested allowance, or allowance payable on the death of an active member. These proposed regulations are also being amended to make technical and clarifying changes to the existing regulations and to explain when certain updated factors will apply to the agency's calculations.